

## HOUSE BILL NO. 383

INTRODUCED BY D. WANZENRIED

BY REQUEST OF THE GOVERNOR

A BILL FOR AN ACT ENTITLED: "AN ACT REVISING ETHICS LAWS; EXTENDING THE TIME PERIOD FROM 12 MONTHS TO 24 MONTHS FOLLOWING THE TERMINATION FROM OFFICE IN WHICH A PUBLIC OFFICER MAY NOT OBTAIN EMPLOYMENT IN WHICH THE OFFICER WILL TAKE DIRECT ADVANTAGE, UNAVAILABLE TO OTHERS, OF MATTERS WITH WHICH THE OFFICER WAS DIRECTLY INVOLVED; ESTABLISHING A 24-MONTH PERIOD FOLLOWING THE TERMINATION OF OFFICE IN WHICH A LEGISLATOR MAY NOT OBTAIN EMPLOYMENT IN WHICH THE LEGISLATOR WILL TAKE DIRECT ADVANTAGE, UNAVAILABLE TO OTHERS, OF MATTERS WITH WHICH THE LEGISLATOR WAS DIRECTLY INVOLVED DURING A TERM OF OFFICE; AND AMENDING SECTIONS 2-2-105 AND 2-2-112, MCA."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 2-2-105, MCA, is amended to read:

**"2-2-105. Ethical requirements for public officers and public employees.** (1) The requirements in this section are intended as rules of conduct, and violations constitute a breach of the public trust and public duty of office or employment in state or local government.

(2) Except as provided in subsection (4), a public officer or public employee may not acquire an interest in any business or undertaking that the officer or employee has reason to believe may be directly and substantially affected to its economic benefit by official action to be taken by the officer's or employee's agency.

(3) A public officer, within 24 months following the voluntary termination of office, or public employee ~~may not~~, within 12 months following the voluntary termination of ~~office or~~ employment, may not obtain employment in which the officer or employee will take direct advantage, unavailable to others, of matters with which the officer or employee was directly involved during a term of office or during employment. These matters are rules, other than rules of general application, that the officer or employee actively helped to formulate and applications, claims, or contested cases in the consideration of which the officer or employee was an active participant.

(4) When a public employee who is a member of a quasi-judicial board or commission or of a board, commission, or committee with rulemaking authority is required to take official action on a matter as to which the public employee has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the public employee's influence, benefit, or detriment in regard to the matter, the public employee shall disclose the interest creating the conflict prior to participating in the official action.

(5) A public officer or public employee may not perform an official act directly and substantially affecting a business or other undertaking to its economic detriment when the officer or employee has a substantial personal interest in a competing firm or undertaking."

**Section 2.** Section 2-2-112, MCA, is amended to read:

**"2-2-112. Ethical requirements for legislators.** (1) The requirements in this section are intended as rules for legislator conduct, and violations constitute a breach of the public trust of legislative office.

(2) A legislator has a responsibility to the legislator's constituents to participate in all matters as required in the rules of the legislature. A legislator concerned with the possibility of a conflict may briefly present the facts to the committee of that house that is assigned the determination of ethical issues. The committee shall advise the legislator as to whether the legislator should disclose the interest prior to voting on the issue pursuant to the provisions of subsection (5). The legislator may, subject to legislative rule, vote on an issue on which the legislator has a conflict, after disclosing the interest.

(3) When a legislator is required to take official action on a legislative matter as to which the legislator has a conflict created by a personal or private interest that would directly give rise to an appearance of impropriety as to the legislator's influence, benefit, or detriment in regard to the legislative matter, the legislator shall disclose the interest creating the conflict prior to participating in the official action, as provided in subsections (2) and (5) and the rules of the legislature. In making a decision, the legislator shall consider:

- (a) whether the conflict impedes the legislator's independence of judgment;
- (b) the effect of the legislator's participation on public confidence in the integrity of the legislature;
- (c) whether the legislator's participation is likely to have any significant effect on the disposition of the matter; and
- (d) whether a pecuniary interest is involved or whether a potential occupational, personal, or family benefit could arise from the legislator's participation.

(4) A conflict situation does not arise from legislation or legislative duties affecting the membership of

1 a profession, occupation, or class.

2 (5) A legislator shall disclose an interest creating a conflict, as provided in the rules of the legislature.

3 A legislator who is a member of a profession, occupation, or class affected by legislation is not required to  
4 disclose an interest unless the class contained in the legislation is so narrow that the vote will have a direct and  
5 distinctive personal impact on the legislator. A legislator may seek a determination from the appropriate  
6 committee provided for in 2-2-135.

7 (6) A legislator, within 24 months following the termination of office, may not obtain employment in which  
8 the legislator will take direct advantage, unavailable to others, of matters with which the legislator was directly  
9 involved during the term of office. For the purposes of this subsection, direct involvement includes the  
10 sponsorship of legislation or membership on a committee that normally hears legislation related to a particular  
11 subject."

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